

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MEE MEE BROWN,

Plaintiff,

vs.

JOHN KROLL, Facility Operating
Officer at Norfolk Regional Center, In
Their Individual Capacities; BEVERLY
LEUSHEN, Licensed Administrative
Program Therapist, In Their Individual
Capacities; KATHY HERRON,
Licensed 3-East Unit Supervisor, In
Their Individual Capacities; TABITHA
WAGGONER, Provisionally Licensed
Group Facilitator and Social Worker, In
Their Individual Capacities; and
RHONDA WILSON, Registered Nurse,
In Their Individual Capacities;

Defendants.

8:17CV294

ORDER

This matter is before the court on remand from the Eighth Circuit Court of Appeals for the limited purpose of determining Plaintiff's in forma pauperis ("IFP") status and assessing the appellate filing fees pursuant to [28 U.S.C. § 1915](#) as amended by the Prison Litigation Reform Act ("PLRA").

Plaintiff has been committed to a state mental institution. She is not a prisoner. The court previously determined that because Plaintiff proceeded IFP in the district court, she may proceed on appeal in forma pauperis without further authorization pursuant to [Fed. R. App. P. 24\(a\)\(3\)](#). ([Filing No. 39](#).) The court did not calculate and collect the appellate filing fees in accordance with the PLRA because Plaintiff is not a "prisoner" within the meaning of the PLRA. *See Reed v.*

Clarke, No. 4:04CV3168, 2005 WL 1075092, at *1 n.1 (D. Neb. May 5, 2005) (“The plaintiff is presently in the Lincoln Regional Center pursuant to a mental health commitment. The Prison Litigation Reform Act (‘PLRA’) does not apply to persons in custody pursuant to the Mental Health Commitment Act, as the definition of ‘prisoner’ in the PLRA does not include a person involuntarily committed for reasons of mental health.”) (citing *Kolocotronis v. Morgan*, 247 F.3d 726, 728 (8th Cir.2001)). Accordingly,

IT IS ORDERED that:

1. Plaintiff may proceed on appeal in forma pauperis and without payment of the appellate filing fees.
2. The Clerk of Court shall provide the Eighth Circuit Court of Appeals with a copy of this order.

Dated this 19th day of June, 2018.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge